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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/888,915
Filing Date: June 25, 2001
Appellant(s): HUH ET AL.

Paul J. Farrell
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8-8-07 appealing from the Office action mailed 2-6-07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|--------------------|--|---------|
| US006205129B1 | Esteves | 3-2001 |
| 3GPP2-C00-20000327 | CDMA2000 HDR standard (Proposed HDR Standard) | 3-2000 |
| US 5,689,503 | Wada | 11-1997 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,4,8,11,15,16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Esteves (US006205129B1).

Regarding Claims 1 and 4, Esteves discloses an access terminal (AT) (see FIG. 3, Mobile station 300) for transmitting data rate control (DRC) information (see col. 4, line 33-36;

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DRC message) to an access network (AN) (see FIG. 4, Base station 400) transmitting packet data for a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots) according to a requested data rate in order to request a data rate for packet data (see col. 4, line 45-55; a new requested data rate) to be transmitted by the AN for a second transmission period after the first transmission period (see col. 4, line 46-59; a next interval) in a mobile telecommunication system (see col. 3, line 54-56, 60-64; CDMA system), comprising:

- a receiver for receiving (see FIG. 3, Receiver 334, 344, 342, 340, 340; see col. 8, line 14-43) a DRC request indicator (DRI) bit (see col. 4, line 36-42; receiving a balanced state bit, set either 1 or 0) in at least one predetermined slot before a last slot of the first transmission period (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)); and

- a transmitter (see FIG. 3, Transmitter 332, 336, 338 and 348; see col. 8, line 14-43) for selectively transmitting the DRC information according to the DRI bit to the AN (see col. 4, line 40-50; mobile station transmits DRC message according to balanced state bit);

wherein the DRI bit indicates if the DRC information is required (see col. 4, line 36-56; see col. 5, line 24-37; see col. 7, line 60-67; a balanced state bit indicates whether/if DRC message is reliably needed/required to be received by the base station).

Regarding Claims 8 and 11, Esteves discloses an access network (AN) (see FIG. 4, Base station 400) for transmitting packet data at a requested data rate to an access terminal (AT) (see FIG. 3, Mobile station 300) and controlling transmission of DRC information (see col. 4, line 33-36; DRC message) from the AT that requests the data rate for the packet data (see col. 4,

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line 45-55; a requested data rate) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system), comprising:

a controller (see FIG. 4, Cell-site control processor 478) for checking a last slot (see col. 4, line 37-45; monitors each time slot (which includes up to a last slot) for DRC message) of a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots) when the AN transmits the packet data to the AT for the first transmission period (see col. 4, line 30-40); and

a transmitter for transmitting (see FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484 and diversity combiner and decoder 348) a DRC request indicator (DRI) bit (see col. 4, line 36-42; transmitting a balanced state bit, set either 1 or 0) to the AT in at least one predetermined slot before the last slot to request DRC information (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)) to be used for a second transmission period after the first transmission period to the AT (see col. 4, line 46-59; for next interval);

wherein the DRI bit indicates if the DRC information is required (see col. 4, line 36-56; see col. 5, line 24-37; see col. 7, line 60-67; a balanced state bit indicates whether/if DRC message is reliably needed/required to be received by the base station).

Regarding Claim 15, Esteves discloses a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system) comprising:

an access network (AN) (see FIG. 4, Base station 400) for transmitting packet data for a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots) according to a requested data rate (see col. 4,

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line 45-55; a new requested data rate) and transmitting a DRC request indicator (DRI) bit (see FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484); see col. 4, line 36-42; transmitting a balanced state bit, set either 1 or 0) in at least one predetermined slot before a last slot of the first transmission period (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)); and

an access terminal (AT) (see FIG. 3, Mobile station 300) for selectively transmitting data rate control (DRC) information to the AN (see FIG. Transmitter 332,336,338, 348; see col. 8, line 14-43) according to the DRI bit to request a data rate for packet data (see col. 4, line 40-50; mobile station transmits DRC message according to balanced state bit) to be received for a second transmission period after the first transmission period (see col. 4, line 46-59; for next interval);

wherein the DRI bit indicates if the DRC information is required (see col. 4, line 36-56; see col. 5, line 24-37; see col. 7, line 60-67; a balanced state bit indicates whether/if DRC message is reliably needed/required to be received by the base station).

Regarding Claim 16, Esteves discloses wherein the AT comprises the receiver (see FIG. 3, Receiver 334,344,342,340,340) for receiving the DRC bit from the AN (see col. 8, line 14-43) and a transmitter (see FIG. Transmitter 332,336,338 and 348) for selectively outputting the DRC information according to the DRI bit (see col. 8, line 14-43; col. 8, line 35-55).

Regarding Claim 18, Esteves discloses wherein the AN comprises a controller (see FIG. 4, cell-site control processor 478) for checking the last slot of the first transmission period when the AN transmits the packet data to the AT for the first transmission period (see col. 4, line 37-45; monitoring the last/final channel/slot from mobile unit), and a transmitter (see FIG. 4,

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Transmit power amplifier, Transmit power control, transmit modulator 484) for transmitting the DRI bit to the AT (col. 4, line 45-55).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7,14,17,19, 30,33,36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esteves in view of Proposed HDR Standard (hereinafter refers to as “CDMA2000 HDR standard”, 3GPP2-C00-20000327)).

Regarding Claim 30, Esteves discloses a method of transmitting data rate control (DRC) information (see col. 4, line 33-36; DRC message) to an access network (AN) (see FIG. 4, Base station 400) in a access terminal (AT) of a first group (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system) having the AN for transmitting packet data at a requested data rate for a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots), and a plurality of ATs divided into the first AT group that includes at least one AT for receiving the packet data for the first transmission period (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) and a second AT group that does not receive the packet data for the first transmission period and is to receive

packet data for a second transmission period after the first transmission period (see col. 4, line 46-59; mobile stations in the next interval), comprising:

determining (see FIG. 4, Cell-site control processor 478) a last slot of the first transmission period (see col. 4, line 37-45; monitors and determine each time slot (which includes up to a last slot)); and

generating (see FIG. 4, a combined system of Transmit power amplifier, Transmit power control, transmit modulator 484, and diversity combiner and decoder 348) the DRC information of the AT of the first group (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) in at least one predetermined slot before the last slot and transmitting the DRC information to the AN (see FIG. 4, a combined system transmit DRC to base station 400), said at least one predetermined slot located of the first transmission period (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)).

Esteves does not explicitly disclose after packet data. However, these limitations are well known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1, AT) comprising determining a last slot of the first transmission period (see page 8-8, paragraph 8.2.5.5.1.2; see page 8-30, paragraph 8.4.5.6.1.1);

transmitting the DRC information in at least one of predetermined slot before the last slot to the AN (see page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2), said at least one predetermined slot located after the packet data of the first transmission period (see pages 20-23, paragraphs 9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph 8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot $i+32$, thus, it is clear that slot 1-15 before the last slot (i.e. slot 32)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide after packet data, as taught by CDMA2000 HDR standard in the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very high data transmission rates and very high capacity by using a separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

Regarding Claim 33, Esteves discloses an access terminal (AT) (see FIG. 3, Mobile station 300) of a second group for transmitting data rate control (DRC) information (see col. 4, line 33-36; DRC message) to an access network (AN) (see FIG. 4, Base station 400) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system) having the AN for transmitting packet data at a requested data rate for a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots), and a plurality of ATs divided into a first AT group that includes at least one AT for receiving the packet data for the first transmission period (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) and a second AT group that does not receive the packet data for the first transmission period and is to receive packet data for a second transmission period after the first transmission period (see col. 4, line 46-59; mobile stations in the next interval), comprising:

a preamble detector (see FIG. 3, Diversity combiner and decoder 348) for detecting a preamble (see col. 3, line 54-56,60-64; CDMA system mobile units; col. 8, line 35-55; note that unit 348 in each CDMA mobile unit detects received preambles, during combining and decoding);

a controller (see FIG. 4, Cell-site control processor 478) for checking a last slot of the first transmission period (see col. 4, line 37-45; monitors each time slot (which includes up to a last slot)); and

a transmitter for selectively transmitting (see FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484, and Diversity combiner and decoder 348) the DRC information of the AT of the first group (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) in a predetermined slot before the last slot to the AN under the control of the controller (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)).

Esteves does not explicitly disclose a packet length detector for detecting the length of the packet data. However, these limitations are well known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1, AT) comprising preamble detector for detecting preambles (see FIG. 9-7; see page 9-14,9-15, paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.1; preambles are detected);

a packet length detector for detecting the length of the packet data transmitted to the first group of ATs for the first transmission period from the preamble (see FIG. 9-7; see page 9-14,9-15, paragraph 9.2.1.3.1; page 8-30, paragraph 8.4.5.6.1.1; AT detecting a first n-DRCLength slots packet including preamble);

checking a last slot of the first transmission period (see page 8-8, paragraph 8.2.5.5.1.2; see page 8-30, paragraph 8.4.5.6.1.1);

selectively transmitting the DRC information in a predetermined slot before the last slot to the AN (see page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2), said at least one predetermined

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slot located after the packet data of the first transmission period (see pages 20-23, paragraphs 9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph 8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot $i+32$, thus, it is clear that slot 1-15 before the last slot (i.e. slot 32))).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide packet length detector, as taught by CDMA2000 HDR standard in the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very high data transmission rates and very high capacity by using a separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

Regarding Claim 37, Esteves discloses an access terminal (AT) (see FIG. 3, Mobile station 300) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system), comprising:

a multiplier (see FIG. 3, Diversity combiner and decoder 348) for sequentially multiplying a received preamble by a plurality of codes (see col. 3, line 54-56,60-64; CDMA system mobile units) assigned to a plurality of ATs (see col. 8, line 35-55; note that each CDMA mobile unit multiples/combines received preambles with codes, during decoding);

a detector (see FIG. 3, a combined system of control processor 346, transmit modulator 338) for detecting an AT receiving packet data from the multiplication result (see col. 8, line 35-63);

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a controller (see FIG. 4, Cell-site control processor 478) for determining the termination period of packet data transmission based on the packet length (see col. 4, line 37-45; monitors each time slot or length (which includes up to a last slot) in each message); and

a transmitter for selectively transmitting (see FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484) data rate control (DRC) information in a predetermined period to an access network (AN) (see FIG. 4, Base station 400) before the termination period (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)).

Esteves does not explicitly disclose orthogonal codes and a detector for detecting the length of the packet data. However, these limitations are well known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1, AT) comprising multiplier (see FIG. 9-7) for sequentially multiplying a received preamble by a plurality of predetermined orthogonal code assigned to the plurality of ATs (see page 9-14, 9-15, paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.2.1; received preambles are multiplied/covered with orthogonal Walsh codes);

a detector (see FIG. 9-7) for detecting an AT receiving packet data and the length of the packet data from the multiplication result (see page 8-30, paragraph 8.4.5.6.1.1; AT detecting a first n-DRCLength slots packet including preamble);

determining the termination period of packet transmission based upon packet length (see page 8-8, paragraph 8.2.5.5.1.2; see page 8-30, paragraph 8.4.5.6.1.1);

selectively transmitting the DRC information in a predetermined period to an access network (AN) (see FIG. 1-1, AN) before the termination period (see page 8-30, paragraph

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8.4.5.6.1.1 and Table 8-2), said at least one predetermined slot located after the packet data of the first transmission period (see pages 20-23, paragraphs 9.2.1.3.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph 8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot $i+32$, thus, it is clear that slot 1-15 before the last slot (i.e. slot 32))).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide orthogonal codes and packet length detector, as taught by CDMA2000 HDR standard in the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very high data transmission rates and very high capacity by using a separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

Regarding Claims 7,14,17,19, and 36, Esteves discloses the transmitter comprises a selector (see FIG. 3, a combined system of Transmit power control and Transmit modulator 338) for receiving the DRC information and selectively outputting the DRC information according to the DRI bit (see col. 5, line 20-40; see col. 8, line 35-55), and a spreader (see FIG. 3, Diversity combiner and decoder) for spreading the output of the selector with a predetermined code (see col. 8, line 35-55; note that each CDMA mobile unit multiples/combines received preambles with codes, during decoding).

Esteves does not explicitly disclose orthogonal codes. However, these limitations are well known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1, AT) comprising a selector for receiving the DRC information (see FIG. 9-7, Encoder for DRC) and selectively outputting the DRC information (see page 9-14,9-15, paragraph 9.2.1.3.1) and a spreader (see FIG. 9-7, Walsh cover) for

spreading the output of the selector with a predetermined orthogonal code (see page 9-14,9-15, paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.2.1; received preambles are multiplied/covered with orthogonal Walsh codes);

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide orthogonal codes, as taught by CDMA2000 HDR standard in the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very high data transmission rates and very high capacity by using a separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

5. Claims 2,5,9,12,20,31,34, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada (US 5,689,503).

Regarding Claims 2,5,9,12,20,31,34, and 38, Esteves does not explicitly disclose at least two slots before the last slot.

However, Wada teaches wherein the predetermined slot is the second slot from the last slot (see FIG. 5, base station transmission at a time slot that starts at t_{10} is the second slot from the last slot that starts at time 12 (i.e. final portion of a frame); see col. 7, line 4-8). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a base station transmission at a second time slot before the last time slot, as taught by Wada in the system of Esteves, so that it would allow other mobile to access in the next frame, thereby, avoiding deterioration of efficiency of the radio channel due to the collision; see Wada, see col. 55-66; see col. 7, line 6-9.

6. Claims 3,6,10,13,21,32,35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esteves in view of Wada, and further in view of CDMA2000 HDR standard.

Regarding Claims 3,6,10,13,21,32,35 and 39, Esteves does not explicitly disclose the first two slot from the last slot and the last slot.

However, Wada teaches wherein the predetermined slot is the first two slots from the last slot (see FIG. 5, base station transmission at two time slots that starts at t9 and t10 from the last slot that starts at time 12 (i.e. final portion of a frame); see col. 7, line 4-8). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a base station transmission at a second time slot before the last time slot, as taught by Wada in the system of Esteves, so that it would allow other mobile to access in the next frame, thereby, avoiding deterioration of efficiency of the radio channel due to the collision; see Wada, see col. 55-66; see col. 7, line 6-9.

Neither Esteves nor Wada explicitly discloses the last slot. However, CDMA2000 HDR standard teaches wherein the predetermined slot is the last slot (see page 8-29, paragraph 8.4.5.4; see page 8-8, paragraph 832.5.5.1.2; see page 8-10, paragraph 8.2.6.2; see page 8-31, paragraph 8.4.5.6.1.1; predetermined last slot/bit/channel). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the last slot, as taught by CDMA2000 HDR standard in the combined system of Esteves and Wada, so that it would enhance to CDMA2000 family HDR which obtains very high data transmission rates and very high capacity by using a separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

(10) Response to Argument

Section 1A-B: Regarding claim 1, the appellant argued that, "...the data rate control (DRC) request indicator (DRI) bit that indicates if the DRC information is required of claim 1 not anticipated by Esteves" in page 7-8.

In response to appellant 's argument, the examiner respectfully disagrees with the above argument.

First, Esteves discloses wherein the DRI bit indicates if the DRC information is required (see col. 4, line 36-56; see col. 5, line 24-37; see col. 7, line 60-67; **a balanced state bit indicates whether/if DRC message is reliably needed/required to be received by the base station**).

Second, in accordance with the appellant's specification page 8, lines 16-23 discloses, ***"The DRI bit indicates whether DRC information is needed for scheduling after a predetermined slot period... The DRI bit is set to 1 if the transmission of the forward packet is terminated in the predetermined slot and to 0 if the transmission of the current forward packet continues."***

Thus, it is clear that the appellant's DRI bit (which set 0 or 1) is used the access network (i.e. base station) to determine and indicate the reliability of the links so that Data Rate Control information can be sent accordingly.

Second, Esteves discloses as follows:

"if the base station is able to reliably receive DRC messages from the mobile station on the data rate control channel, the base station sends a balanced state bit (i.e., the bit is set to 0 or 1) to the mobile station indicating that the base station is reliably receiving the DRC messages.... For every time slot, the mobile station predicts a new maximum data rate

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that the forward link can support during the next transmit interval and sends a quantized representation of this predicted value back to the base station as part of a DRC message.” (see Esteves col. 4, line 33-55), and

“When the system is operating in the variable rate mode as described above, the mobile station monitors the state of the balanced state bit periodically received from the base station. If the base station is unable to reliably receive DRC messages on the data rate control channel, then the base station will toggle the value of the next balanced state bit sent to the mobile station, **thereby indicating to the mobile station that the system is in an unbalanced state such that the reverse link is unable to support transmission of the data rate information to the base station.**” (see Esteves col. 5, line 25-27)

Thus, it is clear that balance bit (which is set 0 or 1) is used by the base station to determine and indicate the reliability of the links so that Data Rate Control information can be sent in response to balance bit (i.e. DRI bit set to 1) as set forth in the claimed invention. In other words, by transmitting the balance bit (i.e. DRI bit) set to 1 implies that whether/if the DRC information required. If the DRC information is required, balance bit (i.e. DRI bit) is sent by setting the bit to “1”. If the DRC information not required, balance bit (i.e. DRI bit) is sent by setting the bit to “0”.

In view of the above, both appellant DRI bit and Esteves’s balance bit have an identical functionality as set forth above, regardless how these bits are named/called. Therefore, Esteves anticipates the appellant claimed invention.

Section 2: Regarding claims 2 and 3, the appellant argued that, “...these claims are likewise believed to be allowable by virtue of their dependence on claim 1...” in page 9.

In response to appellant’s argument, please see response to claim 1 set forth above since the arguments are based upon claim 1.

Sections 3 and 3A: Regarding claims 4,8,11 and 15, the appellant argued that, “...since this feature is similar to the feature recited in claim 1, the arguments set forth above also apply to claims 4,8,11 and 15...” in page 9.

In response to appellant's argument, please see response to claim 1 set forth above since the arguments are based upon claim 1.

Section 4: Regarding claims 7, 14, 17 and 19, the appellant argued that, "...these claims are likewise believed to be allowable by virtue of their dependence on claim 4, 11 and 15..." in page 10.

In response to appellant's argument, please see response to claim 1 set forth above since the arguments are based upon claims 4, 11 and 15.

Section 5: Regarding claims 5,9,12 and 20, the appellant argued that, "...these claims are likewise believed to be allowable by virtue of their dependence on claim 4, 8, 11 and 15..." in page 10.

In response to appellant's argument, please see response to claim 1 set forth above since the arguments are based upon claims 4, 8, 11 and 15.

Section 6: Regarding claims 6,10, 13, and 21, the appellant argued that, "...these claims are likewise believed to be allowable by virtue of their dependence on claim 4, 8, 11 and 15..." in page 10.

In response to appellant's argument, please see response to claim 1 set forth above since the arguments are based upon claims 4, 8, 11 and 15.

Section 7 and 7A: Regarding claim 30, the appellant argued that, "...the determination of a last slot, and that the DRC information is generated in at least one predetermined slot, the at least one predetermined slot being before the last slot and after the packet data and in the first transmission period is not rendered obvious over Esteves in view of proposed HDR standard (hereinafter refers as CDMA2000 HDR Standard..." in page 10.

In response to appellant's argument, please see response to claim 1 set forth above since the arguments are based upon claims 4, 8, 11 and 15.

Section 7B: Regarding claim 30, the appellant argued that, "...the determination of a last slot, and that the DRC information is generated in at least one predetermined slot, the at least one predetermined slot being before the last slot and after the packet data and in the first transmission period is not rendered obvious over Esteves in view of proposed HDR standard (hereinafter refers as CDMA2000 HDR Standard...neither Esteves nor Proposed HDR standard, or any combination thereof, teaches or discloses the DRC information...in the first transmission period..." in page 10-12.

In response to appellant's argument, the examiner respectfully disagrees with the above argument. Esteves discloses determining (see **FIG. 4, Cell-site control processor 478**) a last slot of the first transmission period (see **col. 4, line 37-45; monitors and determine each time slot (which includes up to a last slot)**), and

transmitting (see **FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484, and Diversity combiner and decoder 348**) the DRC information of the AT of the first group (see **col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval**) in a predetermined slot before the last slot to the AN under the control of the controller (see **col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)**)).

Proposed HDR standard discloses selectively transmitting the DRC information in a predetermined period to an access network (AN) (see **FIG. 1-1, AN**) **before the termination period** (see **page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2**), said at least one predetermined

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slot located after the packet data of the first transmission period (see pages 20-23, paragraphs 9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph 8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot $i+32$, thus, it is clear that slot 1-15 before the last slot (i.e. slot 32))).

In response to **appellant's** argument that it is not render obvious, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Thus it is clear that the combined system of Esteves and CDMA2000 HDR standard discloses the claimed invention.

Section 8: Regarding claim 31, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claim 30..." in page 12.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claim 30.

Section 9: Regarding claim 32, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claim 30..." in page 12.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claim 30.

Sections 10 and 10A: Regarding claims 33 and 37, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claim 30..." in page 12-13.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claim 30.

Section 11: Regarding claim 36, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claim 33..." in page 12-13.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claim 33.

Section 12: Regarding claims 34 and 38, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claims 33 and 37..." in page 13.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claim 30.

Section 13: Regarding claims 35 and 39, the appellant argued that, "...this claim is likewise believed to be allowable by virtue of their dependence on claims 35 and 39..." in page 14.

In response to appellant's argument, please see response to claim 30 set forth above since the arguments are based upon claims 30.

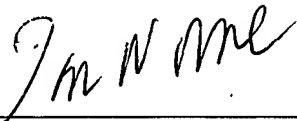
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Ian N. More
October 2, 2007

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